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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,134	03/23/2005	Viktor Zoubek	47623-0006	2574

7590
Dickinson Wright
1901 L Street NW
Suite 800
Washington, DC 20036

01/27/2006

EXAMINER

SAETHER, FLEMMING

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/529,134

Applicant(s)

ZOUBEK ET AL.

Examiner

Flemming Saether

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Information Disclosure Statement

The information disclosure statement filed 3/23/2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document. A copy of the German reference DE 8,113,637 U has not been provided.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1, line 10, it is unclear how the spring arms, which are a part of the fixing element can adjoin itself. It appears, maybe, that "fixing element" should be --support element--. In line 11, it is unclear what is intended by "diagonally opposing" since the foot is shown as circular thus not having a diagonal. In line 13, there is no antecedent basis for "the short spring arms" and "the long spring arms". In the last line "another spring arm pair" is incorrect since there is not another spring arm pair but, instead should refer to --the other spring arm pair--. In claim 3, there is no antecedent basis for as single "the horizontal step" and at the end of the claim it is not understood what is meant by the increasing diameter of the bore since the bore has not been disclosed to increase. In claim 4 and 15, based on the disclosure, it is incorrect to claim the spring arms as "to extend *from* an outer surface" particularly when they are then further claimed as "radially recessed". Claim 5 and claim 15, lines

16-17 are indefinite because they are duplicate to claim 4, lines 6-7 and claim 15, lines 6-7 respectively. Applicant is encouraged to further review the claims for any other areas of confusion or indefiniteness. The claims were examined as best understood.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirchen (US 5,975,820) in view of Mizuno (US 6,560,819). Kirchen discloses a fixing element (12) comprising a retaining part (42), a spring stop (20) and a hollow foot anchor (16). The foot anchor includes toe opposing openings (not labeled) each including spring arms (30-36), forming opposing pairs of short (30, 32) and long (34, 36) spring arms, which originate at a lower edge of the opening and radially widen in a direction of the retaining part (see Fig. 2) wherein each pair forms an end face facing the retaining part at different horizontal planes (see Figs. 1 and 4). Kirchen does not disclose the spring arms provided with several horizontal step surfaces and the corresponding vertical contact surfaces. Mizuno also discloses a fixing element but, Mizuno teaches to provide the spring arms (5) with several horizontal step surfaces and the corresponding vertical contact surfaces (see Fig. 7B) as an improvement over an end face (see Prior Art Fig. 8 and the corresponding description). At the time the

invention was made, it would have been obvious for one of ordinary skill in the art to provide each of the spring arms of Kirchen with several horizontal step surfaces and the corresponding vertical contact surfaces as disclosed in Mizuno in order to accommodate different thicknesses of a support part (see column 1, lines 48-49 in Mizuno). Both Kirchen and Mizuno have objectives to provide a certain amount of deflection to the flange for sealing purposes and the stepped surfaces as disclosed in Mizuno would allow the device of Kirchen more increments of adjustment to accommodate different thicknesses of the support member to ensure an optimal seal at the flange. Once the combination was made, the horizontal step surfaces and the vertical contact surfaces would be a different horizontal and radial planes respectively since they would be provided on different length arms. Finally, the combination with the bore in the support part is considered an intended use limitation, of which modified Kirchen would be capable, since the claims are directed to the fixing element.

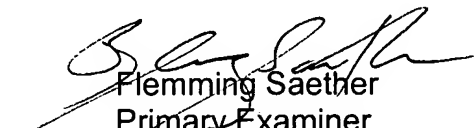
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Flemming Saether
Primary Examiner
Art Unit 3677